

(1949) 07 MAD CK 0043

In the Madras High Court

Case No : Civil Eevn. Petition No. 20 of 1948

Kadiyala Peravadhannulu

APPELLANT

Vs

Kadiyala Peravadhannulu minor by mother and guardian
Subbamma

RESPONDENT

Date of Decision : 25-07-1949

Acts Referred:

Court Fees Act, 1870 — Article 1, 7

Citation : AIR 1950 Mad 26

Hon'ble Judges : Mack, J

Bench : Single Bench

Advocate : P. Somasundaram, for the Appellant; Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Mack, J.—This petition raises a simple question of court-fee.

2. Petitioner is the defendant who in a joint family partition suit against him brought by his grandson was directed to pay a sum of over Rs. 20,000

on an account being taken of out-standings due. In an appeal to the District Court, he sought to value it under Article 17B of Schedule II, Court-

fees Act at Rs. 3100 + 100 adopting the plaint valuation. The learned District Judge held on the strength of the Full Bench decision of this Court in

In re Dhanukondi Nayakar, I. L. R. (1938) Mad. 598 : A. I. R. 1938 Mad. 435 that he should pay ad valorem court-fee on the relief that he

wished to avoid. In that decision the learned Full Bench overruled the decision in In re Nukala Venkatanandam, 66 Mad. 705: A. I. R. 1933 Mad.

330 and held that in a final decree in an account suit, a defendant knew exactly the value of his relief and must pay court-fee accordingly.

3. Mr. Somasundaram has sought to differentiate between an ordinary suit for accounts and a partition suit in which he urges that liability under the final decree arises out of discovery of concealed assets, and also possibly fraudulent conduct on the part of the managing member. I am unable to see how for fiscal purposes the liability of a manager of a Hindu joint family business to account to other members of the joint family can be differentiated from an ordinary suit for account as between partners. The simple principle of valuation is contained in Article I, Schedule I, Court-fees Act. In a plaint or memorandum of appeal court-fee is payable on the amount or value of the subject matter in dispute. In this case the subject-matter in dispute has been clearly determined, namely, a specific amount of over Rs. 20,000 which has to be paid by the petitioner to the plaintiff. The learned District Judge has, in my opinion, rightly applied the principle laid down in *In re Dhanukondi Naicker*, I. L. R. (1938) Mad. 598 : A. I. R. 1938 Mad. 435 to the present case on which ad valorem court-fee must be paid on the amount decreed. The petition is dismissed with costs of the Government Pleader. Time for payment of court-fee six weeks from this date.